REMARKS

This is a full and timely response to the outstanding final Office Action mailed January 27, 2009. Through this response, claims 1, 25, and 26 have been amended. Reconsideration and allowance of the application and pending claims 1-50 are respectfully requested.

I.   **Claim Rejections - 35 U.S.C. § 102(e)**

A.   **Statement of the Rejection**

Claims 1-4, 6, 9, 10, 19, 22, 26-29, 31, 34, 35, 44 and 47 have been rejected under 35 U.S.C. § 102(e) as allegedly anticipated by *Gotoh et al.* ("*Gotoh*," U.S. Pub. No. 2001/0043800). Applicants respectfully traverse this rejection to the extent not rendered moot by amendment.

B.   **Discussion of the Rejection**

It is axiomatic that "[a]nticipation requires the disclosure in a single prior art reference of each element of the claim under consideration." *W. L. Gore & Associates, Inc. v. Garlock, Inc.*, 721 F.2d 1540, 1554, 220 USPQ 303, 313 (Fed. Cir. 1983). Therefore, every claimed feature of the claimed invention must be represented in the applied reference to constitute a proper rejection under 35 U.S.C. § 102(e).

In the present case, not every claimed feature is represented in the *Gotoh* reference. Applicants discuss the *Gotoh* reference and Applicants' claims in the following.

Independent Claim 1:

Claim 1 recites (with emphasis added):

1. A media content recording system in a subscriber network television system, comprising:
> a memory for storing logic;
>
> a storage device comprising a buffer space for continuously buffering media content instances, *the buffer space comprising at any one instance of time plural media content instances corresponding to different video programs*; and
>
> *a processor configured with the logic to represent each of the media content instances in the buffer space as a respective management file stored in the memory, the management file comprising a data structure that includes information identifying a corresponding media content instance of the media content instances, the information including media guide scheduled start and end times.*

Applicants respectfully submit that the rejection has been rendered moot. Further, Applicants respectfully submit that claim 1 is allowable over *Gotoh* for at least the reason that *Gotoh* fails to disclose, teach, or suggest at least the presence of *plural media content instances corresponding to different video programs* within the *buffer space* at any instance of time, and also at least the features of *media guide scheduled start and end times* as *information* included in the *management file*. For at least these reasons, Applicants respectfully request that the rejection be withdrawn.

Because independent claim 1 is allowable over *Gotoh*, dependent claims 2-4, 6, 9, 10, 19 and 22 are allowable as a matter of law for at least the reason that the dependent claims 2-4, 6, 9, 10, 19 and 22 contain all elements of their respective base claim. See, *e.g.*, *In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988).

Independent Claim 26:

Claim 26 recites (with emphasis added):

26. A media content recording method in a subscriber network television system, comprising the steps of:
buffering media content instances into a buffer space, ***the buffer space comprising at any one instance of time plural media content instances corresponding to different video programs***; and
representing each of the buffered media content instances as a management file in a memory separate from the buffer space.

Applicants respectfully submit that the rejection has been rendered moot. In addition, Applicants respectfully submit that *Gotoh* fails to disclose, teach, or suggest at least the above-emphasized features. For at least these reasons, Applicants respectfully request that the rejection be withdrawn.

Because independent claim 26 is allowable over *Gotoh*, dependent claims 27-29, 31, 34, 35, 44 and 47 are allowable as a matter of law.

Due to the shortcomings of the *Gotoh* reference described in the foregoing, Applicants respectfully assert that *Gotoh* does not anticipate Applicants' claims. Therefore, Applicants respectfully request that the rejection of these claims be withdrawn.

II.   Claim Rejections - 35 U.S.C. § 103(a)

A.   Statement of the Rejection

Claims 5, 7, 8, 11-18, 20, 21, 23-25, 30, 32, 33, 36-43, 45, 46 and 48-50 have been rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over *Gotoh* in view of *Ellis et al.* ("*Ellis*," U.S. Pub. No. 2002/0174430). Applicants respectfully traverse this rejection and also submit that the rejection is deficient for at least the reason that *Ellis* does not represent an anticipatory reference and no evidence, as requested in the prior

response, has been provided to support the allegation that features allegedly found in the

utility application are also present in the supporting provisional.

B.   Discussion of the Rejection

The M.P.E.P. § 2100-116 states:

> Office policy is to follow *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), in the consideration and determination of obviousness under 35 U.S.C. 103. . . the four factual inquires enunciated therein as a background for determining obviousness are as follows:
>
> (A) Determining the scope and contents of the prior art;
> (B) Ascertaining the differences between the prior art and the claims in issue;
> (C) Resolving the level of ordinary skill in the pertinent art; and
> (D) Evaluating evidence of secondary considerations.

In the present case, it is respectfully submitted that a *prima facie* case for obviousness

is not established using the art of record.

Dependent Claims 5, 7, 8, 11-18, 20, 21, 23, 24, 30, 32, 33, 36-43, 45, 46, and 48-49

As set forth in association with claims 1 and 26 above, Applicants respectfully

submit that claims 1 and 26 are allowable over *Gotoh*. In addition, Applicants repeat their

request that the Examiner specify particular portions within the *Ellis* provisionals that

allegedly support the rejection, otherwise, the rejection must be withdrawn since the utility

has a filing date after Applicants' filing date. This in not an unreasonable request. For

instance, the Examiner has made citations to, among other figures, Figure 94 of *Ellis* (e.g.,

see page 7) to allegedly support the rejection to claim 8. Attempts have been made to

assist the Examiner in his examination by attempting access to the priority-claimed

provisionals from *Ellis*, but the figures for provisional numbers 60/290,709 and 60/284,703

cannot be accessed electronically from PAIR due to corruption of those files. Also

noteworthy is that there are 72 pages of figures listed in the image file wrapper for each of

those provisionals, whereas the utility comprises 123. Does this mean that the figures of

each are different or the same? If the same, which is more than likely (since 72*2 = 144),

then it is not unreasonable to assume that new matter has been added to the *Ellis* utility in

view of this discrepancy in quantity of figures. Accordingly, Applicants assume that *Ellis* is

not a proper anticipatory reference, and since *Gotoh* does not disclose, teach, or suggest

the features of independent claims 1 and 26, dependent claims 5, 7, 8, 11-18, 20, 21, 23,

24, 30, 32, 33, 36-43, 45, 46, and 48-49 are allowable as a matter of law. Accordingly,

Applicants respectfully request that the rejection be withdrawn.

Independent Claim 25:

> Claim 25 recites (with emphasis added):
> 25. A media content recording system in a subscriber network television
> system, comprising:
>> a memory for storing logic;
>> a storage device comprising a buffer space for continuously
>> buffering media content instances; and
>> a processor configured with the logic to buffer media content
>> instances into the buffer space, wherein the processor is
>> further configured with the logic to ***represent the media
>> content instances in the buffer space as a linked list of
>> management files in the memory***, wherein the logic is
>> further configured to track the duration of the buffered
>> media content instance, wherein the duration of the media
>> content instance corresponds to hard disk space, wherein
>> the management files comprise the locations of data for
>> said files and locations to a previously created
>> management file and to a subsequently created
>> management file, ***wherein the processor is further
>> configured with the logic to configure each of the
>> management files as a data structure that includes
>> media content instance guide data, a buffering start
>> time, an active playback location within the media
>> content instance in the buffer space, a status flag, and
>> a media content instance file name***, wherein the
>> processor is further configured with the logic to use and
>> store the scheduled stop time of each of the media content
>> instances from the media content instance guide data to
>> determine when to close the management file for an
>> ended media content instance and open a new
>> management file for a next media content instance to be

downloaded to the buffer space, wherein the processor is further configured with the logic to receive media content information from a remote server, wherein the media content information comprises a scheduled media content instance start time and a scheduled media content instance end time, wherein the processor is further configured with the logic to track when the buffering of the media content instance starts, wherein the processor is further configured with the logic to determine the media content instance duration by subtracting the media content instance buffering start time from the scheduled media content instance end time, *wherein the processor is further configured with the logic to organize a plurality of management files as a linked list of the management files comprising the locations of data for said files and locations to a previously created management file and to a subsequently created management file*, wherein the processor is further configured with the logic to use the receipt time of a media content instance into the buffer space by using the start time as indicated by an internal clock, wherein the processor is further configured with the logic to configure the media content instances as media content instance files, wherein the processor is further configured with the logic to identify the media content instance files by file names, wherein the processor is further configured with the logic to generate the media content instance file names using the media content instance guide data, wherein each of the media content instance file names include channel number, media content instance title, and the source of the media content instance, wherein the processor is further configured with the logic to access the media content instances by the media content instance file names, wherein the processor is further configured with the logic to buffer analog broadcast media content instances, received at a communications interface, as digitally compressed media content instances, wherein the processor is further configured with the logic to buffer an analog signal received at a connector from a consumer electronics device, as a digitally compressed media content instance, wherein the processor is further configured with the logic to buffer digital broadcast media content instances, received at a communications interface, as digitally compressed media content instances, wherein the processor is further configured with the logic to buffer digital media-on-demand media content instances, received at a communications interface from a remote server, as digitally compressed media content instances, wherein the processor is further configured with the logic to buffer digital media content instances, received at a

digital communications port from a local network, as digitally compressed media content instances, wherein the processor is further configured with the logic to buffer digital media content instances, received at a digital communications port from a local device, as digitally compressed media content instances, *wherein the processor is further configured with the logic to maintain the status flag in the management file wherein the status flag is configured as temporary for a buffered media content instance that is not designated for permanent recording, wherein the processor is further configured with the logic to configure the status flag of the management file for a buffered media content instance as permanent when the user requests that said media content instance be permanently recorded, wherein the processor is further configured with the logic to cause the permanently recorded media content instance to have a permanent designation in a file allocation table in response to having the status flag of the corresponding management file configured as permanent*, such that the buffer space storing the permanently recorded media content instance becomes designated as non-buffer space.

Applicants respectfully submit that *Gotoh* fails to disclose, teach, or suggest at least the above-emphasized features. For instance, *Gotoh* does not disclose, teach, or suggest at least the features of *represent the media content instances in the buffer space as a linked list of management files in the memory*. The final Office Action alleges (page 14) that these features are found in *Gotoh* in Figure 9, 804, and paragraphs [0055, 0062]. Applicants respectfully disagree. There is no "linked list" of management files described in these paragraphs. Indeed, assuming *arguendo* the buffer space to be the sections in memory (e.g., in 705 or 852 in Figures 3 and 9, respectively), there is only a single media content instance (or rather, a portion thereof) described as residing within the buffers, not media content instances (plural). Further, there is no described linking of *management files* described either. For at least this

reason, and to the extent that *Ellis* is an improper anticipatory reference,

Applicants respectfully request that the rejection be withdrawn.

Independent Claim 50:

> Claim 50 recites (with emphasis added):
> 50. A media content recording method in a subscriber network television system, comprising the steps of:
>> *buffering media content instances into a buffer space;*
>> *representing the media content instances in the buffer space as a linked list of management files in the memory;*
>> tracking the duration of the buffered media content instance, wherein the duration of the media content instance corresponds to hard disk space, wherein the management files comprise the locations of data for said files and locations to a previously created management file and to a subsequently created management file;
>> *configuring each of the management files as a data structure that includes media content instance guide data, a buffering start time, an active playback location within the media content instance in the buffer space, a status flag, and a media content instance file name;*
>> using and store the scheduled stop time of each of the media content instances from the media content instance guide data to determine when to close the management file for an ended media content instance and open a new management file for a next media content instance to be downloaded to the buffer space;
>> receiving media content information from a remote server, wherein the media content information comprises a scheduled media content instance start time and a scheduled media content instance end time;
>> tracking when the buffering of the media content instance starts;
>> determining the media content instance duration by subtracting the media content instance buffering start time from the scheduled media content instance end time;
>> *organizing a plurality of management files as a linked list of the management files comprising the locations of data for said files and locations to a previously created management file and to a subsequently created management file;*
>> using the receipt time of a media content instance into the buffer space by using the start time as indicated by an internal clock;
>> configuring the media content instances as media content instance files;
>> identifying the media content instance files by file names;
>> generating the media content instance file names using the media

25

content instance guide data, wherein each of the media content instance file names include channel number, media content instance title, and the source of the media content instance;

accessing the media content instances by the media content instance file names;

buffering analog broadcast media content instances, received at a communications interface, as digitally compressed media content instances;

buffering an analog signal received at a connector from a consumer electronics device, as a digitally compressed media content instance;

buffering digital broadcast media content instances, received at a communications interface, as digitally compressed media content instances;

buffering digital media-on-demand media content instances, received at a communications interface from a remote server, as digitally compressed media content instances;

buffering digital media content instances, received at a digital communications port from a local network, as digitally compressed media content instances;

buffering digital media content instances, received at a digital communications port from a local device, as digitally compressed media content instances;

maintaining the status flag in the management file wherein the status flag is configured as temporary for a buffered media content instance that is not designated for permanent recording;

configuring the status flag of the management file for a buffered media content instance as permanent when the user requests that said media content instance be permanently recorded; and

causing the permanently recorded media content instance to have a permanent designation in a file allocation table in response to having the status flag of the corresponding management file configured as permanent, such that the buffer space storing the permanently recorded media content instance becomes designated as non-buffer space.

For similar reasons presented above in association with claim 1, Applicants respectfully submit that *Gotoh* in view of *Ellis* fails to disclose, teach, or suggest at least the above-emphasized features. For at least these reasons, Applicants respectfully request that the rejection be withdrawn.

In summary, it is Applicants' position that a *prima facie* for obviousness has not been made against Applicants' claims. Therefore, it is respectfully submitted that each of these claims is patentable over *Gotoh* and *Ellis*, and that the rejection of these claims should be withdrawn.

CONCLUSION

Applicants respectfully submit that Applicants' pending claims are in condition for allowance. Any other statements in the Office Action that are not explicitly addressed herein are not intended to be admitted. In addition, any and all findings of inherency are traversed as not having been shown to be necessarily present. Furthermore, any and all findings of well-known art and official notice, and similarly interpreted statements, should not be considered well known since the Office Action does not include specific factual findings predicated on sound technical and scientific reasoning to support such conclusions. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney.

Respectfully submitted,

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